

Exhibit J

Sunbelt Reporting & Litigation Services
Houston Austin Corpus Christi Dallas/Fort Worth East Texas

VIDEOTAPE DEPOSITION OF ANDREW KUHARSKY

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1 ORAL AND VIDEOTAPED DEPOSITION OF ANDREW
2 KUHARSKY, produced as a witness at the instance of the
3 Plaintiff, duly sworn, was taken in the above-styled
4 and numbered cause on September 5, 2007, from 9:40 to
5 6:07, before Phyllis Loy, CSR in and for the State of
6 Texas, reported by stenotype, at the offices of The
7 Solomon Law Firm, 2950 North Loop West, Suite 500,
8 Houston, Texas, pursuant to the Texas Rules of Civil
9 Procedure and the provisions stated on the record or
10 attached hereto.

A P P E A R A N C E S

FOR THE PLAINTIFF:

13 Mr. Timothy McInturf
14 Mr. G. Mark Jodon
Littler Mendelson
15 1301 McKinney Street, Suite 1900
Houston, Texas 77010
16 Telephone: 713.951.9400
Facsimile: 713.951.9212
17 E-mail: tmcinturf@littler.com

FOR THE DEFENDANTS:

19 Mr. Lee Solomon
20 The Solomon Law Firm, P.C.
2950 North Loop West, Suite 500
21 Houston, Texas 77092
Telephone: 713.358.5512
22 Facsimile: 713.358.5513
E-mail: leesolomonlawfirm.com

23 ALSO PRESENT: Mr. Bruce Eames
24 Mr. Vitaliy Godlevsky

25 THE VIDEOGRAPHER: Ms. Dianna Ray

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1 Q. Why is that?

2 A. Because it allows Quantlab Financial to
3 make -- to make that much money.

4 Q. And that's something that is secret and
11:07 5 belongs to Quantlab. Is that correct?

6 A. That's correct.

7 Q. As we sit here today, do you believe you have
8 this code in your possession in any form?

9 A. No, I don't.

11:07 10 Q. As we sit here today, do you know anyone that
11 has any portion of this code that is not a current
12 employee of Quantlab?

13 A. I don't know.

14 Q. That's my question. Do you know anyone?

11:07 15 A. No, I don't.

16 Q. Do you believe Quantlab would be harmed if
17 this code were to fall into the hands of a competitor?

18 A. Yes.

19 Q. How would Quantlab be harmed?

11:08 20 A. It is possible that the competitor would use
21 this code to compete with Quantlab.

22 Q. When we came back from the break, you
23 mentioned something called the Euro-Net. Is that
24 right?

11:08 25 A. Euronext.

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1 with Exhibit 4. Correct?

2 A. Exhibit 4, that's correct.

3 Q. And you've told me that you intend to protect
4 whatever you consider to be Quantlab's confidential
13:55 5 information. Correct?

6 A. No, I did not say that. I said that I would
7 protect information what --

8 THE REPORTER: I'm sorry. You would
9 protect what?

13:55 10 A. I'm sorry. Could you please repeat the
11 question.

12 Q. You indicated you intend to comply with
13 Exhibit 4. Correct?

14 A. That's correct.

13:55 15 Q. How are you going to decide what is
16 confidential information of Quantlab and what is not?

17 A. First of all, I don't have the code, so I
18 cannot use it. Second, as for general knowledge,
19 mathematics and statistics, what I know belongs to me.
13:55 20 As for some, or something similar which is some
21 algorithms, which is similar, can, you know -- a lot
22 of questions I will consult -- I will consult my
23 attorneys.

24 Q. So as we sit here today, other than the code,
13:56 25 is there any information that you learned at Quantlab

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1 that you consider yourself bound not to use?

2 A. One more time. There was lots of
3 information, of course. I had research reports and I
4 don't have them now. I don't have research reports.
13:56 5 I erased all the documents. I erased all the code.
6 Everything else is gray area, which I don't know well,
7 what I can use or I cannot use. I'm going to consult
8 my attorneys. If there will be a possibility for me
9 to use something or when I try to make or to develop
13:57 10 some algorithms.

11 Q. Did you tell Mr. Eames that you feel like
12 you're free to use any information that is in your
13 head?

14 A. No, I did not say that.

13:57 15 Q. Did you tell that to Dr. Bosarge?

16 A. No. I said that they cannot vacuum my head.

17 Q. Do you believe that you're free to use any
18 information that's in your head as long as you don't
19 have research reports and code and files and
13:57 20 documents?

21 A. I don't believe that. I just don't know.

22 Q. Are there any -- as we sit here today, are
23 there any concepts that you know Quantlab is using in
24 its trading strategies that you feel like you are
13:57 25 bound not to try to copy?

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1 first name, so I can't -- Chinese last name and first
2 name, so I cannot spell it for you.

3 Q. What about anyone else?

4 A. Working for -- could you one more time repeat
14:26 5 the question.

6 Q. Sure. What I'm trying to figure out is --
7 I'm intentionally being broad because I'm trying to
8 figure out what types of professional activities
9 you've either engaged in or contemplated since you
14:27 10 left Quantlab. So one of the things is you've talked
11 to Mr. Mammalakis and Mr. Godlevsky about starting a
12 new trading company. Correct?

13 A. Uh-huh.

14 Q. Have you talked with Mr. Mammalakis and
14:27 15 Mr. Godlevsky about what type of trading strategies
16 you might employ on behalf of the new company?

17 A. Yes. We discussed with Vitaliy Godlevsky.

18 Q. What type of strategies are you considering?

19 A. We are considering at this point pair
14:27 20 trading.

21 Q. What?

22 A. Pair trading.

23 Q. And is that different or similar to what
24 Quantlab does?

14:27 25 A. It's different. Quantlab doesn't have the

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1 strategy. Pair, it's p-a-i-r. Sorry.

2 Q. What is pair trading?

3 A. It's when you take two tickers or two stocks,
4 which are very similar, and you try to buy and sell
14:28 5 each of them. And try to come up with -- you know, to
6 make profit.

7 Q. Other than Mr. Mammalakis and Mr. Godlevsky
8 talking to Ping An about coming to work for the
9 company, have you talked to any other Quantlab
14:28 10 employees about perhaps going into business with you?

11 A. No, sir.

12 Q. Have you ever discussed -- have you ever
13 discussed with Ms. Maravina the possibility of working
14 together?

14:28 15 A. No, sir, absolutely not.

16 Q. Have you ever discussed going into business
17 with any other former employees of Quantlab besides
18 Ping An?

19 A. No, sir.

14:29 20 Q. Have you, since your employment ended with
21 Quantlab, considered other professional activities
22 besides starting this company with Mr. Godlevsky and
23 Mr. Mammalakis?

24 A. No, sir.

14:29 25 Q. Have you talked to any trading companies

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1 NO. 2007-34953

2 QUANTLAB FINANCIAL, LLC) IN THE DISTRICT COURT
3 VS.) HARRIS COUNTY, TEXAS
4 ANDRIY (ANDREW))
LEONIDOVICH KUHARSKY) 113TH JUDICIAL DISTRICT

6 NO. 2007-34954

7 QUANTLAB FINANCIAL, LLC) IN THE DISTRICT COURT
8 VS.) HARRIS COUNTY, TEXAS
9 VITALIY GODLEVSKY) 125TH JUDICIAL DISTRICT

10 REPORTER'S CERTIFICATION
11 DEPOSITION OF ANDREW KUHARSKY
12 September 5, 2007

13 I, Phyllis Loy, Certified Shorthand Reporter
14 in and for the State of Texas, hereby certify to the
15 following:

16 That the witness, Andrew Kuharsky, was duly
17 sworn by the officer and that the transcript of the
18 oral deposition is a true record of the testimony
19 given by the witness;

20 That the deposition transcript was submitted
21 on 9/20/07 to the witness or to the attorney for
22 the witness for examination, signature, and return to
23 me by October 10, 2007;

24 That the amount of time used by each party at
25 the deposition is as follows:

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1 Mr. McInturf - 5 hours, 58 minutes

2 That pursuant to information given to the
3 deposition officer at the time said testimony was
4 taken, the following includes counsel for all parties
5 of record:

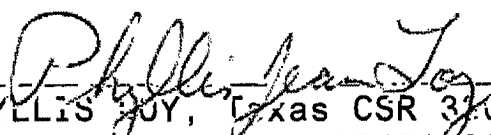
6 Mr. Timothy McInturf, Mr. G. Mark Jodon,
7 Attorneys for Plaintiff.

8 Mr. Lee Solomon, Attorney for Defendants.

9 I further certify that I am neither counsel
10 for, related to, nor employed by any of the parties or
11 attorneys in the action in which this proceeding was
12 taken, and further that I am not financially or
13 otherwise interested in the outcome of the action.

14 Further certification requirements pursuant
15 to Rule 203 of TRCP will be certified to after they
16 have occurred.

17 Certified to by me this September 18, 2007.
18
19
20

21 
22 PHYLLIS JOY, Texas CSR 3101
23 Expiration Date: 12/31/08
24 Firm Registration No. 300
6575 West Loop South, Suite 580
Bellaire, Texas 77401
713.667.0763

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2 The original deposition was was not returned
3 to the deposition officer on 10/10/07;

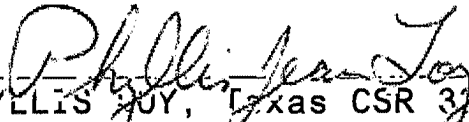
4 If returned, the attached Changes and
5 Signature page contains any changes and the reasons
6 therefor;

7 If returned, the original deposition was
8 delivered to Timothy T. McInturf, Custodial Attorney;

9 That \$1329.20 is the deposition officer's
10 charges to the Plaintiff for preparing the original
11 deposition transcript and any copies of exhibits;

12 That the deposition was delivered in
13 accordance with Rule 203.3, and that a copy of this
14 certificate was served on all parties shown herein on
15 10/30/07 and filed with the Clerk.

16 Certified to by me this 30th day of
17 October, 2007.

20
21 
22 PHYLLIS JOY, Texas CSR 3101
23 Expiration Date: 12/31/08
24 Firm Registration No. 300
25 6575 West Loop South, Suite 580
Bellaire, Texas 77401
713.667.0763